

MINUTES
City Council Legislative Subcommittee
Tuesday, August 11, 2020 4:30 p.m.
Remote Meeting via Zoom

Present via zoom meeting: Mayor Rick Becksted, Councilor Deaglan McEachern, Councilor Paige Trace, City Manager Karen Conard, Assistant City Attorney Jane Ferrini

- I. Greeting:** Mayor Becksted convened the zoom meeting at 4:34 p.m. and declared COVID-19 outbreak an emergency and waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-10, and Emergency Order #12, Section 3. Members participated remotely and identified their location and any person present with them at that location. Mayor Becksted, Councilor McEachern and Councilor Trace were alone in their homes and City Manager Karen Conard and Assistant City Attorney Jane Ferrini were alone in their offices at City Hall. The Mayor stated that all votes would be by roll call.
- II. Minutes:** Councilor Trace moved and Councilor McEachern seconded a motion to approve the January 29, 2020 and February 12, 2020 minutes. By roll call vote Mayor Becksted, Councilor McEachern and Councilor Trace voted to approve the minutes. The motion passed by a unanimous vote, 3-0.
- III. 2021-2022 NHMA Final Legislative Policy Recommendations:** Assistant City Attorney gave background information on the NHMA Legislative Policy approval process. She explained that the attached draft policies need City Council approval in order for the City to participate in the upcoming NHMA policy conference on October 2, 2020. She stated historically the Legislative Subcommittee reports back to the Council on these policies and the Council votes to approve or disapprove these policies. The policies are voted on by the NHMA membership at its policy conference. The final approved policies inform the lobbying efforts NHMA can take in the next legislative session. She further stated that many of the 2021-2022 are similar to past NHMA legislative policies and were forwarded to city staff for their review and comment. Staff did not raise any concerns regarding the draft policies to pass on to the Committee.

 - A. Local Authority and Efficiency:**
The Mayor moved and Councilor Trace seconded a motion to bring all Local Authority and Efficiency policies to the City Council. By roll call vote Mayor Becksted, Councilor McEachern and Councilor Trace voted to favor of the motion, which passed unanimously, 3-0.

B. Right to Know Law:

During the Committee's discussion of the policies, Assistant City Attorney Ferrini noted that the Right to Know policies are similar to policies that were put forward in prior years and bills on these topics are introduced each legislative session.

Mayor Becksted moved and Councilor McEachern seconded a motion to bring all Right to Know policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

C. Elections:

During the Committee's discussion of the policies, Assistant City Attorney Ferrini noted that there is a new law that grants municipalities greater flexibility on a temporary basis due to Covid-19 on absentee ballots. The policy presented on this issue would not be a temporary measure.

Mayor Becksted moved and Councilor Trace seconded a motion to bring all Election policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

D. Labor and Employment:

During the Committee's discussion of the policies, Assistant City Attorney Ferrini noted that the policies were similar to past policies, except perhaps the right to strike and noted that the policies would not support restrictions on hiring decisions like a bill from last session that would have imposed fines on municipalities if part-time former employees exceeded hourly limits.

Mayor Becksted moved and Councilor Trace seconded a motion to bring all Labor and Employment policies to the City Council. By roll call vote, Mayor Becksted and Councilor Trace voted in favor of the motion and Councilor McEachern voted opposed. The motion passed 2-1.

E. Substance Misuse Prevention & Response:

During the Committee's discussion of the policies, Assistant City Attorney Ferrini noted that in recent years there has been an increase in bills relative to substance abuse. She further explained that Committee members could pull out a policy to discuss it and vote on it separately.

Mayor Becksted moved and Councilor McEachern seconded a motion to bring all Substance Misuse Prevention & Response policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

F. Property Taxes and Related Revenues:

During the Committee's discussion of the policies, Assistant City Attorney Ferrini noted that the policies on municipalities charging a fee for remittance issues now only allows the fee for checks and this policy would expand that to credit cards.

Mayor Becksted moved and Councilor Trace seconded a motion to bring all Property Taxes and Related Revenues policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

G. State Aid and Non-Property Tax Revenues:

During the Committee's discussion of the policies, Assistant City Attorney Ferrini noted that these policies were sent to department heads to note concerns regarding any proposed policy and no concerns were raised. She further noted these policies support the restoration of the State's revenue sharing to previous levels and that Portsmouth does not have issues regarding collection of unpaid bills for emergency services but this policy would assist those municipalities that do.

Mayor Becksted moved and Councilor McEachern seconded a motion to bring all State Aid and Non-Property Tax Revenues policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

H. New Hampshire Retirement System (NHRS):

During the Committee's discussion of the policies, Assistant City Attorney Ferrini noted that the policies support restoring the state's obligation to fund employee costs and disapprove policies that would increase contribution by municipalities. She noted that there was a bill last year that would have imposed a fine on municipalities if part-time retired workers exceeded their hour limit. Councilor McEachern confirmed that the policy to restore state's percentage of benefit share refers to the City as employer.

Mayor Becksted moved and Councilor Trace seconded a motion to bring all New Hampshire Retirement System policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

I. Education Funding:

During the Committee's discussion of the policies, Assistant City Attorney Ferrini noted that because the NHMA membership is comprised of former donor and receiver towns, it takes no position on SWEPT.

Mayor Becksted moved and Councilor Trace seconded a motion to bring all Education Funding policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

J. Energy, Environment, and Sustainability:

During the Committee's discussion of the policies, Assistant City Attorney Ferrini explained the concept of net metering which is addressed in several policies.

Mayor Becksted moved and Councilor McEachern seconded a motion to bring all Energy, Environment, and Sustainability policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

K. Water Resources Protection, Control and Management:

Councilor Deglan and Assistant City Attorney Ferrini discussed that several policies support the concept that a municipality should not have to pay for the imposition of stricter environmental standards.

Mayor Becksted moved and Councilor McEachern seconded a motion to bring all Water Resources Protection, Control and Management policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

L. Solid Waste Management:

Mayor Becksted moved and Councilor Trace seconded a motion to bring all Solid Waste Management policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

M. Housing:

Councilor McEachern pointed out there could be a conflict between a prior policy of supporting local control over zoning and the housing policies presented.

Mayor Becksted moved and Councilor McEachern seconded a motion to bring all Housing policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

N. Land Use:

Assistant City Attorney Ferrini noted that the City had put forward the first two policies which were adopted by NHMA in prior Legislative Policy Conferences. Councilor McEachern questioned the imposition of higher building code standards.

Mayor Becksted moved and Councilor Trace seconded a motion to bring all Land Use policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

O. Information Technology, Communications, and Cybersecurity:

Assistant City Attorney Ferrini noted the importance of broadband access brought about by Covid-19. She believed the policy for the state to invest in cybersecurity was new. She confirmed the policy about opposing limiting local control over sidewalks relates to 5-G boxes that are being installed on sidewalks.

Mayor Becksted moved and Councilor Trace seconded a motion to bring all Information Technology, Communications, and Cybersecurity policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

P. Transportation:

Mayor Becksted moved and Councilor Trace seconded a motion to bring all Transportation policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

Q. Economic Development, Recovery, and Vitality:

Mayor Becksted moved and Councilor Trace seconded a motion to bring all Economic Development, Recovery, and Vitality policies to the City Council. By roll call vote, Mayor Becksted, Councilor McEachern and Councilor Trace voted in favor of the motion, which passed unanimously, 3-0.

IV. Update on Commission to Study Education Funding and *Contoocook Valley School District & a. v. State of New Hampshire*, NH Supreme Court Case. No. 2019- 0500.

Assistant City Attorney Ferrini reported that after a brief interruption due to COVID-19, the Commission on Education Funding was moving forward. She

explained the Commission was reviewing voluminous amounts of information and conducting outreach to communities in focus groups and various surveys. She reported that it was the intent of the Commission to reach out to communities in the Fall but due to COVID-19 this may be done remotely. She mentioned that she has been communicating with other former donor towns about the Commission. She relayed that several Commission members have voiced their support for repealing the ability of communities that raise excess SWEPT to retain it. The Commission has asked her to speak on behalf of Portsmouth on August 17, 2020. The intent of the presentation is to give a realistic picture of Portsmouth and the burden of the property tax on its citizens. The Mayor asked if Chris Dwyer was on the Commission and Assistant Attorney Ferrini stated that she is and they communicate regularly. She noted that Chris Dwyer was the only member on the Commission from a former donor town.

Assistant Attorney Ferrini reported that the ConVal matter is scheduled for oral arguments before the Supreme Court on September 24, 2020. She briefly noted the procedural issues on appeal but stated the primary issues on appeal was the lower Court's decision that the base adequacy amount (@\$3,600 without differential aid) was found unconstitutional. She explained that she has been in regular communication with former donor towns regarding the case. She further explained that former donor towns and the State's interest in defending the current education formula align as the current formula provides that communities that collect excess SWEPT may retain it. She noted she reached out to the AG's office during the Supreme Court appeal to see if the AG's office wanted assistance with their brief or an amicus brief but the AG's office never took up the offer. She noted there were several amicus briefs filed: one by property poor school districts represented by Attorney John Tobin; one filed by the ACLU on a procedural issue; and one filed by Senators and Representatives who argue that Claremont should be overturned and the whole issue of education funding should remain with the legislature.

She commented that she felt the issue the retention of excess SWEPT could be addressed by the Supreme Court possibly in the decision or by way of remanding the case in the ConVal matter. She also reported that she thought that overturning the retention of excess SWEPT would likely be included in the final Report of the Commission on Education Funding and would further report back to the Committee.

V. Chapter Laws for 2020 (Informational).

http://gencourt.state.nh.us/bill_status/misc/chaptered_final_version.aspx

Assistant City Attorney Ferrini stated that there were substantially fewer laws passed this session and that relevant laws were forwarded to City staff.

Mayor Becksted discussed setting a meeting with our legislative delegates prior to the next legislative session in order to discuss new legislation.

VI. Adjournment. The meeting adjourned at 5:33 p.m.

For updated status of bills and the Senate and House Calendars, see:
<http://www.gencourt.state.nh.us>. For information regarding the New Hampshire
Municipal Association's Bulletin, see: <http://www.nhmunicipal.org/LegislativeBulletins>

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